



## Healthcare Reform Finding New Value in Grandfathered Plans

*Brit Pim, Vice President of Government Programs*

A crucial decision for employers, with regard to healthcare reform, is whether or not to maintain grandfathered status for their group plans. Grandfathered plans are not required to comply with the rules around preventive services and the appeals process, making them exempt from a number of new cost sharing and coverage mandates. However, for many group plans, the cost advantage of making changes to their plans outweighs that of avoiding some reform mandates.

To maintain grandfathered status, employers are allowed to make only minimal changes to employee cost sharing provisions of the plan.

### Plan Changes that Preserve Grandfathered Status

- An increase in benefits
- No more than 15% increase over medical inflation in deductibles or out-of-pocket limits
- Copayment increase of 15% over medical inflation or \$5.00 increased by medical inflation, whichever is greater
- Changes required by federal or state laws; or voluntary changes to comply with the law as long as such changes do not decrease benefits
- Change in third-party administrators, including pharmacy benefit management (PBM) vendors

### Plan Changes that Forfeit Grandfathered Status

- Any increase in employee coinsurance percentages
- Cuts in employer contribution rate toward total coverage costs by more than five percentage points
- Any change that eliminates or substantially reduces benefits to treat or diagnose specific conditions
- A merger, acquisition or restructuring for the principal purpose of covering new individuals under a different grandfathered plan

The U.S. Department of Health and Human Services (HHS) published clarifying guidance in November 2010 that allows employers with grandfathered group plans to switch insurance carriers and PBMs without having to abide by new coverage requirements. According to the Interim Final Rule, employers can elect to contract with a new PBM without losing grandfathered status as long as the switch does not result in a significant reduction of benefits or a cost increase for enrollees.

Under our interpretation of the existing rule, employers would not lose grandfathered status as a result of changes to formulary, utilization management programs, pharmacy networks, home delivery programs or specialty spend management programs. However, we encourage plan sponsors to consult legal counsel regarding how healthcare reform legislation and other regulations impact their organization.

### The Value of Optimizing Grandfathered Plans

One way employers can derive additional value from their grandfathered plans is by implementing more member-choice programs with the help of an experienced PBM.

Express Scripts has assisted several plan sponsors in making healthcare plan changes that added value while preserving each plan's grandfathered status. These acceptable plan changes include our suite of products, Select Solutions – Powered by Choice<sup>SM</sup>, which are proven to reduce costs for plan sponsors without restructuring the overall plan design. Select Solutions is a family of choice-based programs that leverage human behavior by engaging members and encouraging them to make more cost-effective, non-mandated choices.

Some of these programs include:

- **Select Home Delivery** – estimated savings of up to \$27 per member per year for over 280 plan sponsors

*(please see other side)*

- **Select Step Therapy** – estimated savings up to \$30 per member per year
- **Select Network** – estimated savings up to \$11 per member per year

An Express Scripts plan sponsor achieved significant savings on overall plan costs by switching to Select Home Delivery and selecting a narrower pharmacy network. These changes did not constitute a benefit change, because members continued to receive their medication but at a lesser cost.

---

#### **About the Author**

*Brit Pim is the vice president of Government Programs at Express Scripts. He is a frequent speaker at industry conferences on the topics of healthcare reform, Medicare and Medicaid. Express Scripts leads the industry in managing pharmacy benefits in an environment of ever-changing regulations. As the Patient Protection and Affordable Care Act continues to evolve, we provide critical guidance for plan sponsors as they navigate the many decisions and changes this law poses to the industry. As always, we leverage our insight and expertise to make the use of prescription drugs safer and more affordable for tens of millions of Americans.*